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12 UNITED STATES DISTRICT COURT
13 SOUTHERN DISTRICT OF CALIFORNIA
14 SAN DIEGO DIVISION
15

16 VEDANTI LICENSING LIMITED,
17 LLC,

18 Plaintiff,

19 vs.

20 GOOGLE LLC,

21 Defendant.
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CASE NO. 3:20-CV-01344-BEN-WVG

**REQUEST FOR JUDICIAL
NOTICE IN SUPPORT OF
DEFENDANT'S MOTION TO
DISMISS PURSUANT TO FED. R.
CIV. P. 12(B)(6) AND MOTION TO
STRIKE PURSUANT TO FED. R.
CIV. P. 12(F)**

Date: November 16, 2020
Time: 10:30 a.m.
Judge: Hon. Roger T. Benitez
Courtroom 5A

Defendant Google LLC (“Google”) respectfully requests that the Court consider certain documents identified below in connection with Google’s Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(6) and Motion to Strike Pursuant to Fed. R. Civ. P. 12(f) (“Motion”) because: (1) the Court may take judicial notice of the following documents and certain terms contained therein pursuant to Federal Rule of Evidence 201 and related authority; and (2) certain documents were referenced or relied upon in the First Amended Complaint (Dkt. 20) (“FAC”) as identified below. These documents are attached as Exhibits to the Declaration of Robert W. Unikel in Support of Defendant’s Motion (“Unikel Declaration”).

Exhibit	Description	Basis
Ex. A	U.S. Patent Office’s record of assignment history for U.S. Patent No. 7,974,339 (“the ’339 Patent”)	FRE 201 and because referenced or relied upon in FAC
Ex. B	LLC Registration for Vedanti Licensing Limited LLC from the California Secretary of State	FRE 201
Ex. C	IPR2016-00212, Final Written Decision (May 17, 2017)	FRE 201 and because referenced or relied upon in FAC
Ex. F	IPR2016-00212, Patent Owner Vedanti Systems Limited’s Mandatory Notices (Dec. 9, 2015)	FRE 201
Ex. G	IPR2016-00212, Patent Owner’s Updated Mandatory Notice (Aug. 11, 2016)	FRE 201
Ex. H	IPR2016-00212, Patent Owner’s Third Updated Mandatory Notice (Jan. 12, 2017)	FRE 201
Ex. J	Assignment of U.S. Patent No. 7,974,339 to Vedanti Licensing Limited (UK) (Sep. 29, 2016)	FRE 201 and because referenced or relied upon in FAC
Ex. K	Assignment of U.S. Patent No. 7,974,339 to Vedanti Licensing Limited LLC (June 30, 2020)	FRE 201 and because referenced or relied upon in FAC

1 Federal Rule of Evidence 201 authorizes this Court to take judicial notice of
 2 facts “not subject to reasonable dispute” that “can be accurately and readily
 3 determined from sources whose accuracy cannot reasonably be questioned.” Fed. R.
 4 Evid. 201(b). The Rule mandates that judicial notice be taken “if a party requests it
 5 and the court is supplied with the necessary information,” *id.* at 201(c), and
 6 authorizes judicial notice “at any stage of the proceeding,” *id.* at 201(d). *See Mir v.*
 7 *Little Co. of Mary Hosp.*, 844 F.2d 646, 649 (9th Cir. 1988) (“In addition to the
 8 complaint, it is proper for the district court to ‘take judicial notice of matters of
 9 public record outside the pleadings’ and consider them for purposes of the motion
 10 to dismiss.”) (citation omitted).

11 It is well settled that records and reports from government agencies are the
 12 proper subject of judicial notice. *See, e.g., Barron v. Reich*, 13 F.3d 1370, 1377 (9th
 13 Cir. 1994) (judicial notice may be taken of “[r]ecords and reports of administrative
 14 bodies”); *Cota v. Maxwell-Jolly*, 688 F. Supp. 2d 980, 998 (N.D. Cal. 2010) (“The
 15 Court may properly take judicial notice of the documents appearing on a
 16 governmental website.”).

17 Specifically, it is appropriate to take judicial notice of the PTAB’s Final
 18 Written Decision (Ex. C) and other PTAB filings (Exs. F–H). *See Papai v. Harbor*
 19 *Tug & Barge Co.*, 67 F.3d 203, 207 n.5 (9th Cir. 1995), *rev’d on other grounds*,
 20 520 U.S. 548 (1997) (“Judicial notice is properly taken of orders and decisions
 21 made by other courts or administrative agencies.”); *PersonalWeb Techs. LLC v.*
 22 *Google LLC*, No. 5:13-cv-01317-EJD, 2020 WL 520618, at *6 n.4 (N.D. Cal. Jan.
 23 31, 2020) (“The IPR materials cited by Defendants and Plaintiff are subject to
 24 judicial notice.”) (*appeal filed*).

25 The ’339 Patent’s assignment history (Exs. A, J, K), as reflected by the PTO
 26 records, is also eligible for judicial notice. “Because the USPTO documents are
 27 public records ‘capable of accurate and ready determination by resort to sources
 28 whose accuracy cannot be questioned,’ judicial notice is proper.” *Seoul Laser*

1 *Dieboard Sys. Co. v. Serviform, S.r.l.*, 957 F. Supp. 2d 1189, 1194 n. 2 (S.D. Cal.
 2 2013); *Certified Nutraceuticals, Inc. v. Avicenna Nutraceutical, LLC*, No. 3:16-cv-
 3 02810, 2018 WL 4385368, at *1 (S.D. Cal. Sept. 14, 2018) (“The Court takes
 4 judicial notice of the ’319 Patent’s assignment history, which is publicly available
 5 on the United States Patent and Trademarks Office’s (‘USPTO’s’) website”).

6 Further, the Court may properly take judicial notice of the LLC Registration
 7 for Vedanti Licensing Limited LLC from the California Secretary of State (Ex. B).
 8 Courts in this district routinely do so. *See, e.g., Kearny Mesa Real Estate Holdings,*
 9 *LLC v. KTA Constr., Inc.*, No. 17-cv-207, 2017 WL 3537753, at *3 (S.D. Cal. Aug.
 10 16, 2017) (taking judicial notice of a Certificate of Registration issued by the
 11 California Secretary of State); *Phillips v. Wells Fargo Bank, N.A.*, No. 09-cv-1486,
 12 2009 WL 3756698, at *3 (S.D. Cal. Nov. 6, 2009) (taking judicial notice of a copy
 13 of the California Secretary of State’s office records regarding the status of a foreign
 14 limited liability company as an active and registered foreign entity).

15 The Court may also take judicial notice of the USPTO assignment records
 16 and the Final Written Decision of the PTAB because “they are integral to the
 17 plaintiff’s claims and their authenticity is not disputed.” *simplehuman, LLC v.*
 18 *iTouchless Housewares & Prods., Inc.*, No. 19-cv-02701, 2019 WL 5963245, at *2
 19 (N.D. Cal. Nov. 13, 2019) (*citing Parrino v. FHP, Inc.*, 146 F.3d 699, 705–06 (9th
 20 Cir. 1998), *superseded by statute on other grounds as stated in Abrego Abrego v.*
 21 *The Dow Chem. Co.*, 443 F.3d 676, 681 (9th Cir. 2006)). Although the USPTO
 22 assignment records (Exs. A, J, K) are not attached to Plaintiff’s FAC, the FAC
 23 bases its alleged standing to bring this action on Plaintiff’s claim that it “is the
 24 owner by assignment of all rights, title, and interests in the ’339 Patent and the
 25 Vedanti Source Code and is entitled to sue for past and future infringement
 26 thereof.” Dkt. 20, ¶ 22. Thus, the assignment records are an integral part of
 27 Plaintiff’s claims. The Final Written Decision (Ex. C) is referenced in the FAC and
 28 is integral to Vedanti’s claims (*i.e.*, which patent claims Vedanti is eligible to

1 assert). In its FAC, Vedanti states “the PTAB determined on May 17, 2017 that
 2 claims 1, 6, 7, 9, 10, 12, and 13 of the ’339 Patent were unpatentable under 35
 3 U.S.C. 103 over the combination of the Spriggs and Golin references . . . the
 4 remaining claims of the ’339 Patent—claims 2, 3, 4, 5, 8, and 11—are still valid
 5 and enforceable today.” Dkt. 20, ¶¶ 34–35. The Court may properly take judicial
 6 notice of these records because they are officially published on and publicly
 7 accessible on the USPTO website. Thus, they are ascertainable, verifiable, and their
 8 accuracy cannot be reasonably questioned. Fed. R. Evid. 201(b)(2).

9 Therefore, Google requests that the Court take judicial notice of Exhibits A–
 10 C, F–H, and J–K of the Unikel Declaration.

11 DATED: October 13, 2020

Respectfully submitted,

12 By: /s/ Robert W. Unikel

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